

(PCT Article 36 and Rule 70)

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2004/019330

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-10 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-5 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 6-8 _____ received by this Authority on 25.10.2005
- nos.* _____ received by this Authority on _____
- ☐ the drawings:
- sheets _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application

☒ claims Nos. 5-8

because:

☒ the said international application, or the said claims Nos. 5
relate to the following subject matter which does not require an international preliminary examination (*specify*):

The subject matter of claim 5 relates to methods for treatment of the human or animal body by therapy. Thus, this International Preliminary Examining Authority is not required to carry out international preliminary examination on this subject matter under the provisions of PCT Rule 67.1(iv).

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 5-8

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See Supplemental Box for further details.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1, 2</u>	YES
		Claims <u>3, 4</u>	NO
	Inventive step (IS)	Claims <u>1, 2</u>	YES
		Claims <u>3, 4</u>	NO
	Industrial applicability (IA)	Claims <u>1-4</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
	Documents cited in the international search report:		
	Document 1: JP 11-98978 A (Calpis Co., Ltd.), 13 April 1999		
	Document 2: JP 10-45610 A (Calpis Co., Ltd.), 17 February 1998		
	Document 3: WO 2000/41572 A1 (Calpis Co., Ltd.), 20 July 2000		
	Document 4: JP 10-95736 A (Calpis Co., Ltd.), 14 April 1998		
	Document 5: JP 2000-239175 A (Calpis Co., Ltd.), 5 September 2000		
	Document 6: JP 2003-81868 A (Ichimaru Pharcos Inc.), 19 March 2003		
	Document 7: JP 2003-135026 A (Sunstar, Inc.), 13 May 2003		
	Document 8: JP 2001-163799 A (Miyagi Chem. Ind.), 19 June 2001		
	Explanation		
	The invention set forth in claims 3 and 4 lacks novelty in the light of documents 1 to 5 cited in the international search report.		
	Documents 1 to 5 set forth fermented milk whey obtained by fermenting milk using <i>Lactobacillus</i>		

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

helveticus, and indicate that said fermented milk whey can be used in functional foods, dietary supplements and the like.

Documents 1 to 5 do not indicate that said food has a moisture-retaining activity, but said food is a functional food, and as such there is no discernible difference from the invention of this application as a food.